

Plaintiff Name	Date/Provider	Echocardiogram Report	FDA Positive or Medically Eligible to Assert Downstream Opt-Out?
Beverly Fleming	10/27/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No
Brenda A. Green	04/8/02 - Dr. Gene Hutchenson	Mild mitral regurgitation No aortic regurgitation noted	No
Keith Paul Hachtel	04/22/01 - Dr. Razzak Tai	Mitral valve has normal structure and function No aortic regurgitation noted	No
Lori Harris	06/25/01 - Dr. Razzak Tai	Mitral valve is "thickened" with normal function Aortic valvular function is normal	No
Estella King	04/21/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No
Avis Yvonne Lucas	06/25/01 - Dr. Razzak Tai	Mitral valve has normal function Aortic valvular function is normal	No
Donna Malone	04/22/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular structure and function are normal	No
Debbie Turney-Miller	06/24/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular function is normal	No
Marie N. Mitchell	06/25/01 - Dr. Razzak Tai	Mitral valve appears "thickened and has a diastolic gradient" Aortic valvular function is normal	No
Stephanie Owens	06/25/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular function is normal	No
Lizette Purnell	06/24/01 - Dr. Razzak Tai	Mild mitral regurgitation Aortic valvular function is normal	No
William Peyton Smith	06/25/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function No aortic regurgitation noted	No
Albert Taylor	06/25/01 - Dr. Razzak Tai	No mitral regurgitation noted Aortic valvular structure is normal	No
Phonecia S. Wilson	04/22/01 - Dr. Razzak Tai	Mitral valve has normal structure and function No aortic regurgitation noted	No

Chandler et al. v. Wyeth et al.

Plaintiff Name	Date/Provider	Echocardiogram Report	FDA Positive or Medically Eligible to Assert Downstream Opt-Out?
Helen Marie Glenn-Beady	05/24/01 – Dr. Razzak Tai	Mild mitral regurgitation Aortic valve is “slightly thickened” with normal function	No
Tammy Cupp	06/24/01 – Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No

Mosley et al. v. Wyeth et al.

Plaintiff Name	Date/Provider	Echocardiogram Report	FDA Positive or Medically Eligible to Assert Downstream Opt-Out?
Moroline H. Allen	04/21/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function	No
Philip Cohen	06/24/01 - Dr. Razzak Tai	Mild valve shows normal structure and function Aortic valvular structure is normal	No
Christine Coleman	10/27/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No
Crystal Franks	06/25/01 - Dr. Razzak Tai	Mitral valve is “thickened” with normal function Aortic valvular function is normal	No
Debbie Girdley	04/22/01 - Dr. Razzak Tai	Mild mitral regurgitation Aortic valvular function is normal	No
Sandra Harris	06/24/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular function is normal	No
Kim Henderson	06/25/01 - Dr. Razzak Tai	Mitral valve is “thickened” with normal function Aortic valvular function is normal	No
Ruby Nell Howell	04/22/01 - Dr. Razzak Tai	“Trace” mitral regurgitation Aortic valvular function is normal	No
Monica James	04/22/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular structure and function are normal	No
Windia Jones	06/25/01 - Dr. Razzak Tai	Mild mitral regurgitation Aortic valvular function is normal	No
Cyndi D. King	10/27/01 - Dr. Razzak Tai	“Minimal” mitral regurgitation No aortic regurgitation noted	No

Plaintiff Name	Date/Provider	Echocardiogram Report	FDA Positive or Medically Eligible to Assert Downstream Opt-Out?
Joseph Lee, Jr.	06/24/01 - Dr. Razzak Tai	No mitral regurgitation noted Aortic valvular function is normal	No
Doris McSwine	06/25/01 - Dr. Razzak Tai	Mitral valve is "thickened" with normal function Aortic valvular function is normal	No
Todd Eric Morgan	10/27/01 - Dr. Razzak Tai	"Minimal" mitral regurgitation Aortic valvular structure and function appears to be normal	No
Dorothy Owens	06/25/01 - Dr. Razzak Tai	Mitral valve "appears to be normal" Aortic valvular function is normal	No
David L. Perry	06/25/01 - Dr. Razzak Tai	Mild mitral regurgitation Aortic valvular function is normal	No
Charlotte S. Price	06/25/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function No aortic regurgitation noted	No
Carol Simmons	10/26/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function No aortic regurgitation noted	No
Jerry L. Smith	06/25/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular function is normal	No
Mary Stewart	04/22/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular structure and function are normal	No
Quinta Tillman	10/28/01 - Dr. Razzak Tai	Mild mitral regurgitation "Minimal" aortic insufficiency	No
Earnestine White	06/24/01 - Dr. Razzak Tai	Mitral valve is "thickened" with normal function Aortic valvular function is normal	No
Francelia Rena Williams	04/21/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valve has normal structure and function	No

Stallings et al v. Wyeth et al.

Plaintiff Name	Date/Provider	Echocardiogram Report	FDA Positive or Medically Eligible to Assert Downstream Opt-Out?

Plaintiff Name	Date/Provider	Echocardiogram Report	FDA Positive or Medically Eligible to Assert Downstream Opt-Out?
Stephanie Bailey	06/25/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function No aortic regurgitation noted	No
Marilyn Blanch	06/25/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular function is normal	No
Priscilla Burney	04/22/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular structure and function are normal	No
Mary C. Buchanan	06/25/01 - Dr. Razzak Tai	"Minimal" mitral regurgitation Aortic valvular function is normal	No
Billy Cupp, Jr.	06/24/02 - Dr. Razzak Tai	Mitral valve shows no abnormality Aortic valvular function is normal	No
Charlie M. Douglas	10/28/01 - Dr. Razzak Tai	Mild mitral regurgitation "Trace" aortic insufficiency	No
Richard D. Eifling	06/25/01 - Dr. Razzak Tai	Mitral valve appears to be normal Aortic valvular function is normal	No
Thelma B. Gales	10/26/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation is noted	No
Lisa M. Gross	04/21/01 - Dr. Razzak Tai	Mitral valve shows "slight thickening" otherwise normal structure and function Aortic valve has normal structure and function	No
Tammy Henderson	06/24/01 - Dr. Razzak Tai	Mitral valve is "thickened" with normal function Aortic valvular function is normal	No
Norma Dempsey Hisaw	06/25/01 - Dr. Razzak Tai	Mitral valve is "thickened" with normal function Aortic valvular function is normal	No
Barbara J. Jenkins	06/24/01 - Dr. Razzak Tai	Mitral valve is "thickened" with normal function Aortic valvular function is normal	No
Jacalyn T. Jones	06/25/01 - Dr. Razzak Tai	Mild mitral regurgitation Aortic valvular function is normal	No

Plaintiff Name	Date/Provider	Echocardiogram Report	FDA Positive or Medically Eligible to Assert Downstream Opt-Out?
Edward McArthur	06/25/01 - Dr. Razzak Tai	Mitral valve is "thickened" with normal function Aortic valvular function is normal	No
Pearl M. McGee	06/24/01 - Dr. Razzak Tai	Mitral valve is "thickened" with normal function No aortic regurgitation noted	No
Melissa Milano	04/22/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valve has normal function	No
Donna Gail Morgan	06/25/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular function is normal	No
Catherine M. Shaffer	04/22/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular structure and function are normal	No
Johnnie Smith	10/27/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No
Patricia Sterling	06/24/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function No aortic regurgitation noted	No
Annie Stevenson	10/27/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No
Wanda J. Thompson	06/25/01 - Dr. Razzak Tai	Mitral valve appears normal Aortic valvular function appears to be normal	No
Mary Schaefer Timms	06/25/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valve has normal function	No
Maxine Tally Whitecomb	06/24/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valve has normal function	No
Edsell Williford	06/25/01 - Dr. Razzak Tai	Mitral valve is "thickened" with normal function No aortic regurgitation noted	No
Carol P. Wilson	10/28/01 - Dr. Razzak Tai	Mild mitral regurgitation "Trace" aortic regurgitation	No
Mae Wilson	10/27/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No
Tabitha M. Wroten	06/25/01 - Dr. Razzak Tai	Mitral valve is "thickened" with normal function Aortic valvular function is normal	No

Sanders et al. v. Wyeth et al.

Plaintiff Name	Date/Provider	Echocardiogram Report	FDA Positive or Medically Eligible to Assert Downstream Opt-Out?
Cynthia D. Adams	10/26/01 – Dr. Razzak Tai	“Trace” mitral regurgitation Aortic function is normal	No
Dee Andrews	04/21/01- Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular structure and function are normal	No
Mary Alice Arnold	06/25/01 - Dr. Razzak Tai	Mitral valve is “thickened” with normal function No aortic regurgitation noted	No
Elenor J. Barbee	10/28/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No
Harry L. Beaver	06/25/01 - Dr. Razzak Tai	Mitral valve “appears to be normal except for thickening” Aortic valvular function is normal	No
Sue Bolden	06/25/01 - Dr. Razzak Tai	Mitral valve is “thickened” with normal function Aortic valvular function is normal	No
Mary Margo Brock	06/24/01 - Dr. Razzak Tai	Mitral valve is “thickened” with normal function No aortic regurgitation noted	No
Peggy Butler	06/25/01- Dr. Razzak Tai	Mitral valve is “thickened” with normal function Aortic valvular function is normal	No
Rebecca Lou Carter	06/24/01 - Dr. Razzak Tai	Mitral valve is “thickened” with normal function Aortic valvular function is normal	No
Betty J. Davis	06/25/01- Dr. Razzak Tai	Mitral valve appears to be normal Aortic valvular function appears to be normal	No
Rhonda Saul Evans	06/25/01 - Dr. Razzak Tai	Mitral valve has normal structure and function No aortic regurgitation noted	No
Gween Fortune	10/28/01 - Dr. Razzak Tai	“Slight” mitral regurgitation “Slight” aortic insufficiency	No
Jacqueline Frye	04/22/01- Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular structure and function are normal	No
Patricia Harwell	10/02/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No
Traci Johnson	06/25/01 - Dr. Razzak Tai	Mitral valve is “thickened” with normal function No aortic regurgitation noted	No

Plaintiff Name	Date/Provider	Echocardiogram Report	FDA Positive or Medically Eligible to Assert Downstream Opt-Out?
Bobbie F. Love	04/21/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valve has normal structure and function	No
Jo Ann Mathes	06/25/01 - Dr. Razzak Tai	Mild mitral regurgitation Aortic valvular function is normal	No
Mekii N. McGee	10/27/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No
John L. Pate	06/25/01 - Dr. Razzak Tai	Mitral valve is "thickened" with normal function Aortic valvular function is normal	No
Nancy Rachal	06/24/01 – Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valvular function is normal	No
Laleta Lane Reeves	06/25/01- Dr. Razzak Tai	Mitral valve is "thickened" with normal function Aortic valvular function is normal	No
Therial Taylor	06/24/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function "Minimal aortic stenosis and regurgitation"	No
Lorna Temple	10/28/01 - Dr. Razzak Tai	Mild mitral regurgitation "Trace" aortic insufficiency	No
LaSenya Thomas	06/25/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No
Kinley Wilson	04/21/01 - Dr. Razzak Tai	Mitral valve shows normal structure and function Aortic valve has normal structure and function	No
Marcia Woods	06/24/01 - Dr. Razzak Tai	Mild mitral regurgitation No aortic regurgitation noted	No

It is beyond comprehension that these plaintiffs could purport to exercise downstream Opt-Out rights when their own echocardiograms do not even arguably qualify them. Plaintiffs have had ample opportunity to address these problems but they have not. These individuals should never have filed suit because they do not meet the requirements to exercise downstream Opt-Out rights. The claims of these plaintiffs therefore must be dismissed.

C. ALL NON-OPT-OUTS SHOULD BE DISMISSED AND ALL CLAIMS OF PPH SHOULD BE DISMISSED

The seven Complaints in these cases include general allegations of primary pulmonary hypertension, as well as claims for punitive and exemplary damages that only valid Initial Opt-Outs or those who can meet the Settlement Agreement definition of Primary Pulmonary Hypertension (“PPH”) are entitled to make. *See, e.g.*, Complaints at ¶ 4.6(I). Not a single plaintiff in these seven cases has complied with PTO 2383 or has even attempted to demonstrate that he or she can meet the Settlement Agreement definition of PPH. Accordingly, all claims of PPH and related punitive and exemplary damages should be dismissed for all remaining plaintiffs in all of these cases. Additionally, all plaintiffs who have not opted-out at all should be dismissed from these cases.

The Complaints in all seven cases contain generalized allegations of PPH that are not specific as to each plaintiff. On March 4, 2003, counsel for Wyeth sent a letter in each of the seven cases requesting that plaintiffs provide all evidence upon which they intended to rely to support claims of PPH as defined in the Settlement Agreement –for any plaintiff who actually intended to claim PPH. *See* Ex. A. As the Court is well aware, PTO 2383 requires plaintiffs to provide all such evidence within 30 days of request by Wyeth. In contravention of PTO 2383, as well as common courtesy, counsel for plaintiffs simply ignored these letters, as well as all subsequent overtures to address the procedural deficiencies in their cases. As a consequence of their failure to comply with PTO 2383, for all plaintiffs in all seven cases, all allegations of PPH and related punitive or exemplary damages should be stricken, and their cases should be dismissed.

Additionally, the claims of the following non-opt out plaintiffs should be dismissed because they have failed to demonstrate that they have a right, pursuant to PTO 2383, to sue for PPH as defined by the Settlement Agreement. In the absence of a valid PPH claim and any opt-out, therefore, all claims these plaintiffs might have are settled claims and may not be pursued.

CASE	PLAINTIFF ¹⁰	Opt-Out Status
<i>Binion</i>	Sheila Bush	No Opt-Out forms filed
<i>Binion</i>	Elaine Steward	No Opt-Out forms filed
<i>Mosley</i>	Diane Thompson	No Opt-Out forms filed
<i>Sanders</i>	Hannah McClure	No Opt-Out forms filed
<i>Sanders</i>	Ruxandra Olariv	No Opt-Out forms filed
<i>Sanders</i>	Deloris Sample	No Opt-Out forms filed
<i>Sanders</i>	Velda Yvetta Smith	No Opt-Out forms filed
<i>Stallings</i>	Stephanie Bailey	No Opt-Out forms filed
<i>Stallings</i>	Sharon Ballinger	No Opt-Out forms filed
<i>Stallings</i>	Linda Rogers Harwell	No Opt-Out forms filed
<i>Stallings</i>	Nathaniel Williams	No Opt-Out forms filed

Even if the Court declines to dismiss all allegations of PPH for all plaintiffs at this time, there is a subset of plaintiffs who have already unequivocally demonstrated their inability to bring a PPH claim pursuant to PTO 1415. Although plaintiffs have failed to respond to Wyeth's requests for evidence of PPH, some plaintiffs have provided echocardiogram reports in the course of discovery. The plaintiffs in the following chart should be dismissed under PTO 1415 because, although their echocardiograms on their face indicate elevated pulmonary artery systolic pressures as required by Part 1(b) of the PPH definition, they also indicate that these plaintiffs have at least moderate mitral regurgitation or moderate aortic insufficiency, which disqualifies a PPH claim under part 2(a) of the PPH definition. PTO 1415.

CASE	PLAINTIFF	PART 2(a) ¹¹
<i>Robbins</i>	Kevin Minor	moderate MR
<i>Binion</i>	Mitzi M. Allen	moderate MR
<i>Binion</i>	Barbara Henry	moderate MR
<i>Chandler</i>	Michael C. Amburn	moderate MR
<i>Chandler</i>	Melissa Kennedy	moderate MR
<i>Chandler</i>	Lora A. Poe	moderate MR
<i>Chandler</i>	Elaine B. Turner	moderate MR
<i>Chandler</i>	Leslie White	moderate MR
<i>Mosley</i>	Rhonda Prisock	moderate MR
<i>Mosley</i>	Beverly Toliver	moderate AI
<i>Sanders</i>	Sharon D. Holland-Sims	moderate MR
<i>Sanders</i>	Hannah McClure	moderate MR, mild AI
<i>Sanders</i>	Dorothy J. Washington	moderate MR

To be clear, there is no indication that any plaintiff in any of these seven cases is actually claiming PPH. Almost all of the plaintiffs have filed some type of opt-out form. However, a few straggling plaintiffs have filed no type of opt-out form at all, as indicated above, and the Complaints contain allegations of PPH and assert claims for punitive damages. Therefore, to address the slight chance that one or more of these plaintiffs actually means to assert himself or herself as a PPH claimant, and in the absence of any communication from plaintiffs' counsel as to their intent, Wyeth is constrained to move for the dismissal of all PPH claims and all non-opt-out plaintiffs.

III. THE COURT SHOULD DIRECT PLAINTIFFS TO FILE AMENDED COMPLAINTS THAT ASSERT CLAIMS FOR ONLY THOSE INJURIES AND DAMAGES PERMITTED BY THE SETTLEMENT AGREEMENT

As to the remaining plaintiffs whose echocardiogram reports purport to show FDA-Positive regurgitation (all of whom are downstream Opt-Outs), Wyeth respectfully

Footnote continued from previous page

¹⁰ These names are non-opt-outs. See Affidavit of Scott K. Monroe, attached as Exhibit L.

requests that this Court direct those plaintiffs to file Amended Complaints that assert claims for only those injuries and damages permitted by the Settlement Agreement. As discussed above, all of the Complaints assert claims for injuries not permissible for downstream Opt-Outs. Accordingly, Wyeth requests that the Court enter an injunction directing that each plaintiff with an echocardiogram report purportedly showing an FDA-Positive condition file an Amended Complaint that (i) alleges in detail the specific injury on which that person bases his or her claim as a downstream Opt-Out, and (ii) limits the claims asserted to that injury. No such injury should be permitted to form the basis for a claim unless it falls within the scope of permissible claims for downstream Opt-Outs under the Settlement Agreement.

Additionally, the joinder of Initial Opt-Outs with purported downstream Opt-Outs frustrates the purposes of the Settlement Agreement and is in direct violation of this Court's Order. *See* PTO 2627. Such joinder, this Court found, would "greatly prejudice Wyeth and would surely eviscerate the evidentiary and damage limitations for which Wyeth bargained in the Settlement Agreement." *Id.* Here, the lead plaintiff in six of these cases has exercised an Initial Opt Out. *See* Declaration of Scott K. Monroe, Exhibit L. Those plaintiffs are therefore not Class Members and are not subject to any of the restrictions on the prosecution of claims that bind the other plaintiffs joined in the same Complaint. Accordingly,

- While the downstream Opt-Out plaintiffs are precluded from seeking punitive damages, their co-plaintiff Initial Opt-Outs are not.

Footnote continued from previous page

¹¹ Copies of the echo reports of these plaintiffs, as provided to Wyeth by plaintiffs, are attached hereto as Exhibit M.

- While the downstream Opt-Out plaintiffs are restricted to asserting claims based only on specified injuries, their co-plaintiff Initial Opt-Outs are not.
- According to the Settlement Agreement, while the downstream Opt-Outs are precluded from using previous factual findings, verdicts or judgments, their co-plaintiff Initial Opt-Outs are not. *See Settlement Agreement § IV(D)(4)(c).*
- According to the Settlement Agreement, while the downstream Opt-Outs plaintiffs are prohibited from introducing into evidence the terms of the Settlement Agreement or related proceedings, *id.*, at VIII(F)(3), their co-plaintiff Initial Opt-Outs are not.

Plaintiffs' strategy of bundling some Initial Opt-Out plaintiffs together with purported downstream Opt-Out plaintiffs is counter to this Court's rulings, and frustrates the restrictions applicable to downstream Opt-Out claimants. As noted by the Court, Wyeth would be deprived of the benefit of its bargain if such claims could be tried together in such a manner that the unrestricted Initial Opt-Outs claims could infect the evidence admissible and information presented to the jury in connection with the trial of the downstream Opt-Out claims. Wyeth therefore requests that the claims of the Initial Opt-Outs and the downstream Opt-Out plaintiffs be severed.

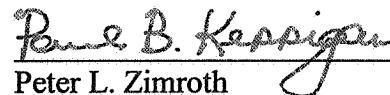
Finally, Wyeth notes that the vast majority of plaintiffs in these cases have not complied with this Court's Order in PTO 2930, requiring that each plaintiff provide Wyeth with Plaintiff Fact Sheets, List of Medical Providers, and Medical Authorization forms. In PTO 2930, this Court ordered that each plaintiff in any lawsuit removed to a United States District Court on or before July 31, 2003, deliver to all defendants a completed or updated list of Medical Providers and ten (10) executed Medical Authorizations by September 6, 2003. *See PTO 2930, at ¶ 7.* Plaintiffs have thus far failed on a grand scale to comply with this Court's Order. As a result, Wyeth is unable to meaningfully litigate these cases without such material. Plaintiffs should be ordered to comply with the provisions of PTO 2930.

IV. CONCLUSION

For all of these reasons and those set forth above, Wyeth therefore respectfully requests that the Court enter the following orders: (a) an Order directing plaintiffs Beverly Fleming (*Binion*); Velma Bell (*Harmon*) Arma Harper (*Mosley*) Valenta Allen-Williams (*Mosley*), Edward McArthur (*Stallings*), Robert Fulton McDaniel (*Binion*), Anthony Earl Sykes (*Binion*) Lillian Chandler (*Chandler*), Felicia Edwards (*Harmon*), Donna Murphy (*Harmon*), and Johnny Earl Clark (*Stallings*) to dismiss their claims with prejudice because they have otherwise settled with Wyeth or elected the AIO; (b) an Order directing the Class Members in Section II(B) of this Memorandum who are not medically eligible to bring downstream opt-out claims to dismiss their claims against Wyeth with prejudice for failure to meet the medical eligibility requirements for prosecuting a downstream Opt-Out of the Settlement Agreement; and (c) an Order directing the non-opt out plaintiffs listed in Section II(C) of this Memorandum to dismiss their claims with prejudice for failure to meet the medical eligibility requirements for prosecuting a PPH claim; (d) an Order directing those plaintiffs listed in Section II(C) of this Memorandum to dismiss their PPH claims with prejudice because they have not complied with PTO 2383 and they do not meet the Settlement Agreement definition of PPH, consistent with the findings of PTO 1415; (e) an Order directing that within 30 days all downstream Opt-Outs whose echocardiogram report shows purported FDA-Positive regurgitation file an Amended Complaint specifying the injury claimed and limiting their claims and damages to that injury; (f) an Order directing that within 30 days plaintiffs comply with the provisions of PTO 2627 and sever the Initial Opt-Outs from the downstream Opt Outs; and (g) an Order directing plaintiffs to comply with PTO 2930 and

within 30 days deliver to Wyeth plaintiff fact sheets and a List of Medical Providers with executed Medical Authorizations for each remaining plaintiff in these cases.

Respectfully submitted,



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Attorneys for Defendant Wyeth

Dated: October 24, 2003

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of Wyeth's Motion to Dismiss Certain Plaintiffs in the *Linda Harmon, Duwanda Robbins, Janice Binion, Lillian Chandler, Patricia Mosley, Mary F. Sanders and Brenda Stallings* actions, supporting Memorandum of Law and Appendix of Exhibits was served this 24th day of October 2003 by UPS Overnight Delivery upon plaintiffs' counsel in each of the foregoing actions addressed as follows:

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and by hand delivery upon the Special Discovery Master and the MDL 1203 Liaison Counsel identified below addressed as follows:

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Pretrial Order No. 19.



Paul B. Kerrigan

Date: October 24, 2003